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SENATE BILL 5980

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State of Washington

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By Senators Fraser, Pflug, Keiser, Parlette, Kohl-Welles, Rasmussen, Roach, Poulsen and Fairley

Read first time 02/09/2007. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to notifying licensed nursing homes and boarding  
2 homes of offender status of residents or persons seeking admission;  
3 amending RCW 72.09.340 and 70.129.110; reenacting and amending RCW  
4 9A.44.130; adding a new section to chapter 70.129 RCW; adding a new  
5 section to chapter 18.20 RCW; and adding a new section to chapter 18.51  
6 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 72.09.340 and 2005 c 436 s 3 are each amended to read  
9 as follows:

10 (1) In making all discretionary decisions regarding release plans  
11 for and supervision of sex offenders, the department shall set  
12 priorities and make decisions based on an assessment of public safety  
13 risks.

14 (2) The department shall, no later than September 1, 1996,  
15 implement a policy governing the department's evaluation and approval  
16 of release plans for sex offenders. The policy shall include, at a  
17 minimum, a formal process by which victims, witnesses, and other  
18 interested people may provide information and comments to the  
19 department on potential safety risks to specific individuals or classes

1 of individuals posed by a specific sex offender. The department shall  
2 make all reasonable efforts to publicize the availability of this  
3 process through currently existing mechanisms and shall seek the  
4 assistance of courts, prosecutors, law enforcement, and victims'  
5 advocacy groups in doing so. Notice of an offender's proposed  
6 residence shall be provided to all people registered to receive notice  
7 of an offender's release under RCW 9.94A.612(2), except that in no case  
8 may this notification requirement be construed to require an extension  
9 of an offender's release date.

10 (3)(a) The department shall notify a boarding home licensed under  
11 chapter 18.20 RCW or a nursing home licensed under chapter 18.51 RCW  
12 that an offender convicted of a sex offense, as defined in RCW  
13 9.94A.030 or convicted of reckless burning or arson under chapter 9A.48  
14 RCW, when an offender is going to be discharged from total or partial  
15 confinement or is currently under supervision or community custody and  
16 is seeking admission to a facility.

17 (b) In making this notification, the department shall include:

18 (i) The person's name or names;

19 (ii) A physical description of the person;

20 (iii) Any conditions upon the person's probation, parole,  
21 postprison supervision, or conditions of release;

22 (iv) A description of the offender's method of offense;

23 (v) A description of the person's primary and secondary targets;

24 (vi) A current photograph of the person; and

25 (vii) The name and telephone number of the person's parole or  
26 probation officer.

27 (4)(a) For any offender convicted of a felony sex offense against  
28 a minor victim after June 6, 1996, the department shall not approve a  
29 residence location if the proposed residence: (i) Includes a minor  
30 victim or child of similar age or circumstance as a previous victim who  
31 the department determines may be put at substantial risk of harm by the  
32 offender's residence in the household; or (ii) is within close  
33 proximity of the current residence of a minor victim, unless the  
34 whereabouts of the minor victim cannot be determined or unless such a  
35 restriction would impede family reunification efforts ordered by the  
36 court or directed by the department of social and health services. The  
37 department is further authorized to reject a residence location if the  
38 proposed residence is within close proximity to schools, child care

1 centers, playgrounds, or other grounds or facilities where children of  
2 similar age or circumstance as a previous victim are present who the  
3 department determines may be put at substantial risk of harm by the sex  
4 offender's residence at that location.

5 (b) In addition, for any offender prohibited from living in a  
6 community protection zone under RCW 9.94A.712(6)(a)(ii), the department  
7 may not approve a residence location if the proposed residence is in a  
8 community protection zone.

9 ~~((4))~~ (5) When the department requires supervised visitation as  
10 a term or condition of a sex offender's community placement under RCW  
11 9.94A.700(6), the department shall, prior to approving a supervisor,  
12 consider the following:

13 (a) The relationships between the proposed supervisor, the  
14 offender, and the minor; (b) the proposed supervisor's acknowledgment  
15 and understanding of the offender's prior criminal conduct, general  
16 knowledge of the dynamics of child sexual abuse, and willingness and  
17 ability to protect the minor from the potential risks posed by contact  
18 with the offender; and (c) recommendations made by the department of  
19 social and health services about the best interests of the child.

20 **Sec. 2.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c  
21 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as  
22 follows:

23 (1)(a) Any adult or juvenile residing whether or not the person has  
24 a fixed residence, or who is a student, is employed, or carries on a  
25 vocation in this state who has been found to have committed or has been  
26 convicted of any sex offense or kidnapping offense, or who has been  
27 found not guilty by reason of insanity under chapter 10.77 RCW of  
28 committing any sex offense or kidnapping offense, shall register with  
29 the county sheriff for the county of the person's residence, or if the  
30 person is not a resident of Washington, the county of the person's  
31 school, or place of employment or vocation, or as otherwise specified  
32 in this section. Where a person required to register under this  
33 section is in custody of the state department of corrections, the state  
34 department of social and health services, a local division of youth  
35 services, or a local jail or juvenile detention facility as a result of  
36 a sex offense or kidnapping offense, the person shall also register at

1 the time of release from custody with an official designated by the  
2 agency that has jurisdiction over the person.

3 (b) Any adult or juvenile who is required to register under (a) of  
4 this subsection:

5 (i) Who is attending, or planning to attend, a public or private  
6 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within  
7 ten days of enrolling or prior to arriving at the school to attend  
8 classes, whichever is earlier, notify the sheriff for the county of the  
9 person's residence of the person's intent to attend the school, and the  
10 sheriff shall promptly notify the principal of the school;

11 (ii) Who is admitted to a public or private institution of higher  
12 education shall, within ten days of enrolling or by the first business  
13 day after arriving at the institution, whichever is earlier, notify the  
14 sheriff for the county of the person's residence of the person's intent  
15 to attend the institution;

16 (iii) Who gains employment at a public or private institution of  
17 higher education shall, within ten days of accepting employment or by  
18 the first business day after commencing work at the institution,  
19 whichever is earlier, notify the sheriff for the county of the person's  
20 residence of the person's employment by the institution; ((or))

21 (iv) Whose enrollment or employment at a public or private  
22 institution of higher education is terminated shall, within ten days of  
23 such termination, notify the sheriff for the county of the person's  
24 residence of the person's termination of enrollment or employment at  
25 the institution; or

26 (v) Who is residing, or planning to reside, in a boarding home  
27 licensed under chapter 18.20 RCW or a nursing home licensed under  
28 chapter 18.51 RCW, shall notify the sheriff for the county or his or  
29 her legal representative shall notify the sheriff for the county in  
30 which a boarding home or nursing home is located and in which the  
31 person resides, or intends to reside. The sheriff shall promptly  
32 notify the administrator of the boarding home or nursing home that a  
33 person required to register under this section intends to or resides in  
34 the boarding home or nursing home.

35 The resident or his or her legal representative shall promptly  
36 notify the sheriff, upon transfer or discharge from a boarding home  
37 licensed under chapter 18.20 RCW or nursing home licensed under chapter  
38 18.51 RCW, of the change in residence.

1 (c) Persons required to register under this section who are  
2 enrolled in a public or private institution of higher education on June  
3 11, 1998, or a public or private school regulated under Title 28A RCW  
4 or chapter 72.40 RCW on September 1, 2006, or residing in a boarding  
5 home licensed under chapter 18.20 RCW or a nursing home licensed under  
6 chapter 18.51 RCW on June 30, 2007, must notify the county sheriff  
7 immediately.

8 (d) The sheriff shall notify the school's principal (~~(or)~~), the  
9 institution's department of public safety, or the boarding home or  
10 nursing home administrator, and shall provide (~~(that department with)~~)  
11 the same information provided to a county sheriff under subsection (3)  
12 of this section.

13 (e)(i) A principal receiving notice under this subsection must  
14 disclose the information received from the sheriff under (b) of this  
15 subsection as follows:

16 (A) If the student who is required to register as a sex offender is  
17 classified as a risk level II or III, the principal shall provide the  
18 information received to every teacher of any student required to  
19 register under (a) of this subsection and to any other personnel who,  
20 in the judgment of the principal, supervises the student or for  
21 security purposes should be aware of the student's record;

22 (B) If the student who is required to register as a sex offender is  
23 classified as a risk level I, the principal shall provide the  
24 information received only to personnel who, in the judgment of the  
25 principal, for security purposes should be aware of the student's  
26 record.

27 (ii) Any information received by a principal or school personnel  
28 under this subsection is confidential and may not be further  
29 disseminated except as provided in RCW 28A.225.330, other statutes or  
30 case law, and the family and educational and privacy rights act of  
31 1994, 20 U.S.C. Sec. 1232g et seq.

32 (f)(i) An administrator of a boarding home licensed under chapter  
33 18.20 RCW, or a nursing home licensed under chapter 18.51 RCW,  
34 receiving notice under this subsection must disclose to all management  
35 staff, and all caregivers within the boarding home or nursing home that  
36 a convicted sex offender resides in the boarding home or nursing home  
37 and any other relevant information that may be necessary for the proper  
38 care and treatment of that person.

1       (ii) Any information received by an administrator of a boarding  
2 home or nursing home under this subsection is confidential and may not  
3 be further disseminated except as required by law.

4       (iii) The administrator shall notify the sheriff upon transfer or  
5 discharge of the convicted sex offender that the person will no longer  
6 reside in the boarding home or nursing home.

7       (2) This section may not be construed to confer any powers pursuant  
8 to RCW 4.24.550 upon the public safety department of any public or  
9 private school or institution of higher education.

10       (3)(a) The person shall provide the following information when  
11 registering: (i) Name; (ii) complete residential address; (iii) date  
12 and place of birth; (iv) place of employment; (v) crime for which  
13 convicted; (vi) date and place of conviction; (vii) aliases used;  
14 (viii) social security number; (ix) photograph; and (x) fingerprints.

15       (b) Any person who lacks a fixed residence shall provide the  
16 following information when registering: (i) Name; (ii) date and place  
17 of birth; (iii) place of employment; (iv) crime for which convicted;  
18 (v) date and place of conviction; (vi) aliases used; (vii) social  
19 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
20 or she plans to stay.

21       (4)(a) Offenders shall register with the county sheriff within the  
22 following deadlines. For purposes of this section the term  
23 "conviction" refers to adult convictions and juvenile adjudications for  
24 sex offenses or kidnapping offenses:

25       (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
26 offense on, before, or after February 28, 1990, and who, on or after  
27 July 28, 1991, are in custody, as a result of that offense, of the  
28 state department of corrections, the state department of social and  
29 health services, a local division of youth services, or a local jail or  
30 juvenile detention facility, and (B) kidnapping offenders who on or  
31 after July 27, 1997, are in custody of the state department of  
32 corrections, the state department of social and health services, a  
33 local division of youth services, or a local jail or juvenile detention  
34 facility, must register at the time of release from custody with an  
35 official designated by the agency that has jurisdiction over the  
36 offender. The agency shall within three days forward the registration  
37 information to the county sheriff for the county of the offender's  
38 anticipated residence. The offender must also register within twenty-

1 four hours from the time of release with the county sheriff for the  
2 county of the person's residence, or if the person is not a resident of  
3 Washington, the county of the person's school, or place of employment  
4 or vocation. The agency that has jurisdiction over the offender shall  
5 provide notice to the offender of the duty to register. Failure to  
6 register at the time of release and within twenty-four hours of release  
7 constitutes a violation of this section and is punishable as provided  
8 in subsection (11) of this section.

9 When the agency with jurisdiction intends to release an offender  
10 with a duty to register under this section, and the agency has  
11 knowledge that the offender is eligible for developmental disability  
12 services from the department of social and health services, the agency  
13 shall notify the division of developmental disabilities of the release.  
14 Notice shall occur not more than thirty days before the offender is to  
15 be released. The agency and the division shall assist the offender in  
16 meeting the initial registration requirement under this section.  
17 Failure to provide such assistance shall not constitute a defense for  
18 any violation of this section.

19 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
20 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
21 but are under the jurisdiction of the indeterminate sentence review  
22 board or under the department of corrections' active supervision, as  
23 defined by the department of corrections, the state department of  
24 social and health services, or a local division of youth services, for  
25 sex offenses committed before, on, or after February 28, 1990, must  
26 register within ten days of July 28, 1991. Kidnapping offenders who,  
27 on July 27, 1997, are not in custody but are under the jurisdiction of  
28 the indeterminate sentence review board or under the department of  
29 corrections' active supervision, as defined by the department of  
30 corrections, the state department of social and health services, or a  
31 local division of youth services, for kidnapping offenses committed  
32 before, on, or after July 27, 1997, must register within ten days of  
33 July 27, 1997. A change in supervision status of a sex offender who  
34 was required to register under this subsection (4)(a)(ii) as of July  
35 28, 1991, or a kidnapping offender required to register as of July 27,  
36 1997, shall not relieve the offender of the duty to register or to  
37 reregister following a change in residence. The obligation to register  
38 shall only cease pursuant to RCW 9A.44.140.

1 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
2 or after July 23, 1995, and kidnapping offenders who, on or after July  
3 27, 1997, as a result of that offense are in the custody of the United  
4 States bureau of prisons or other federal or military correctional  
5 agency for sex offenses committed before, on, or after February 28,  
6 1990, or kidnapping offenses committed on, before, or after July 27,  
7 1997, must register within twenty-four hours from the time of release  
8 with the county sheriff for the county of the person's residence, or if  
9 the person is not a resident of Washington, the county of the person's  
10 school, or place of employment or vocation. Sex offenders who, on July  
11 23, 1995, are not in custody but are under the jurisdiction of the  
12 United States bureau of prisons, United States courts, United States  
13 parole commission, or military parole board for sex offenses committed  
14 before, on, or after February 28, 1990, must register within ten days  
15 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
16 in custody but are under the jurisdiction of the United States bureau  
17 of prisons, United States courts, United States parole commission, or  
18 military parole board for kidnapping offenses committed before, on, or  
19 after July 27, 1997, must register within ten days of July 27, 1997.  
20 A change in supervision status of a sex offender who was required to  
21 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
22 kidnapping offender required to register as of July 27, 1997 shall not  
23 relieve the offender of the duty to register or to reregister following  
24 a change in residence, or if the person is not a resident of  
25 Washington, the county of the person's school, or place of employment  
26 or vocation. The obligation to register shall only cease pursuant to  
27 RCW 9A.44.140.

28 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
29 who are convicted of a sex offense on or after July 28, 1991, for a sex  
30 offense that was committed on or after February 28, 1990, and  
31 kidnapping offenders who are convicted on or after July 27, 1997, for  
32 a kidnapping offense that was committed on or after July 27, 1997, but  
33 who are not sentenced to serve a term of confinement immediately upon  
34 sentencing, shall report to the county sheriff to register immediately  
35 upon completion of being sentenced.

36 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
37 RESIDENTS. Sex offenders and kidnapping offenders who move to  
38 Washington state from another state or a foreign country that are not

1 under the jurisdiction of the state department of corrections, the  
2 indeterminate sentence review board, or the state department of social  
3 and health services at the time of moving to Washington, must register  
4 within three business days of establishing residence or reestablishing  
5 residence if the person is a former Washington resident. The duty to  
6 register under this subsection applies to sex offenders convicted under  
7 the laws of another state or a foreign country, federal or military  
8 statutes for offenses committed before, on, or after February 28, 1990,  
9 or Washington state for offenses committed before, on, or after  
10 February 28, 1990, and to kidnapping offenders convicted under the laws  
11 of another state or a foreign country, federal or military statutes, or  
12 Washington state for offenses committed before, on, or after July 27,  
13 1997. Sex offenders and kidnapping offenders from other states or a  
14 foreign country who, when they move to Washington, are under the  
15 jurisdiction of the department of corrections, the indeterminate  
16 sentence review board, or the department of social and health services  
17 must register within twenty-four hours of moving to Washington. The  
18 agency that has jurisdiction over the offender shall notify the  
19 offender of the registration requirements before the offender moves to  
20 Washington.

21 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
22 or juvenile who has been found not guilty by reason of insanity under  
23 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
24 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
25 as a result of that finding, of the state department of social and  
26 health services, or (B) committing a kidnapping offense on, before, or  
27 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
28 as a result of that finding, of the state department of social and  
29 health services, must register within twenty-four hours from the time  
30 of release with the county sheriff for the county of the person's  
31 residence. The state department of social and health services shall  
32 provide notice to the adult or juvenile in its custody of the duty to  
33 register. Any adult or juvenile who has been found not guilty by  
34 reason of insanity of committing a sex offense on, before, or after  
35 February 28, 1990, but who was released before July 23, 1995, or any  
36 adult or juvenile who has been found not guilty by reason of insanity  
37 of committing a kidnapping offense but who was released before July 27,  
38 1997, shall be required to register within twenty-four hours of

1 receiving notice of this registration requirement. The state  
2 department of social and health services shall make reasonable attempts  
3 within available resources to notify sex offenders who were released  
4 before July 23, 1995, and kidnapping offenders who were released before  
5 July 27, 1997. Failure to register within twenty-four hours of  
6 release, or of receiving notice, constitutes a violation of this  
7 section and is punishable as provided in subsection (11) of this  
8 section.

9 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
10 a fixed residence and leaves the county in which he or she is  
11 registered and enters and remains within a new county for twenty-four  
12 hours is required to register with the county sheriff not more than  
13 twenty-four hours after entering the county and provide the information  
14 required in subsection (3)(b) of this section.

15 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
16 SUPERVISION. Offenders who lack a fixed residence and who are under  
17 the supervision of the department shall register in the county of their  
18 supervision.

19 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
20 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
21 who move to another state, or who work, carry on a vocation, or attend  
22 school in another state shall register a new address, fingerprints, and  
23 photograph with the new state within ten days after establishing  
24 residence, or after beginning to work, carry on a vocation, or attend  
25 school in the new state. The person must also send written notice  
26 within ten days of moving to the new state or to a foreign country to  
27 the county sheriff with whom the person last registered in Washington  
28 state. The county sheriff shall promptly forward this information to  
29 the Washington state patrol.

30 (b) Failure to register within the time required under this section  
31 constitutes a per se violation of this section and is punishable as  
32 provided in subsection (11) of this section. The county sheriff shall  
33 not be required to determine whether the person is living within the  
34 county.

35 (c) An arrest on charges of failure to register, service of an  
36 information, or a complaint for a violation of this section, or  
37 arraignment on charges for a violation of this section, constitutes  
38 actual notice of the duty to register. Any person charged with the

1 crime of failure to register under this section who asserts as a  
2 defense the lack of notice of the duty to register shall register  
3 immediately following actual notice of the duty through arrest,  
4 service, or arraignment. Failure to register as required under this  
5 subsection (4)(c) constitutes grounds for filing another charge of  
6 failing to register. Registering following arrest, service, or  
7 arraignment on charges shall not relieve the offender from criminal  
8 liability for failure to register prior to the filing of the original  
9 charge.

10 (d) The deadlines for the duty to register under this section do  
11 not relieve any sex offender of the duty to register under this section  
12 as it existed prior to July 28, 1991.

13 (5)(a) If any person required to register pursuant to this section  
14 changes his or her residence address within the same county, the person  
15 must send signed written notice of the change of address to the county  
16 sheriff within seventy-two hours of moving. If any person required to  
17 register pursuant to this section moves to a new county, the person  
18 must send signed written notice of the change of address at least  
19 fourteen days before moving to the county sheriff in the new county of  
20 residence and must register with that county sheriff within twenty-four  
21 hours of moving. The person must also send signed written notice  
22 within ten days of the change of address in the new county to the  
23 county sheriff with whom the person last registered. The county  
24 sheriff with whom the person last registered shall promptly forward the  
25 information concerning the change of address to the county sheriff for  
26 the county of the person's new residence. Upon receipt of notice of  
27 change of address to a new state, the county sheriff shall promptly  
28 forward the information regarding the change of address to the agency  
29 designated by the new state as the state's offender registration  
30 agency.

31 (b) It is an affirmative defense to a charge that the person failed  
32 to send a notice at least fourteen days in advance of moving as  
33 required under (a) of this subsection that the person did not know the  
34 location of his or her new residence at least fourteen days before  
35 moving. The defendant must establish the defense by a preponderance of  
36 the evidence and, to prevail on the defense, must also prove by a  
37 preponderance that the defendant sent the required notice within  
38 twenty-four hours of determining the new address.

1           (6)(a) Any person required to register under this section who lacks  
2 a fixed residence shall provide signed written notice to the sheriff of  
3 the county where he or she last registered within forty-eight hours  
4 excluding weekends and holidays after ceasing to have a fixed  
5 residence. The notice shall include the information required by  
6 subsection (3)(b) of this section, except the photograph and  
7 fingerprints. The county sheriff may, for reasonable cause, require  
8 the offender to provide a photograph and fingerprints. The sheriff  
9 shall forward this information to the sheriff of the county in which  
10 the person intends to reside, if the person intends to reside in  
11 another county.

12           (b) A person who lacks a fixed residence must report weekly, in  
13 person, to the sheriff of the county where he or she is registered.  
14 The weekly report shall be on a day specified by the county sheriff's  
15 office, and shall occur during normal business hours. The county  
16 sheriff's office may require the person to list the locations where the  
17 person has stayed during the last seven days. The lack of a fixed  
18 residence is a factor that may be considered in determining an  
19 offender's risk level and shall make the offender subject to disclosure  
20 of information to the public at large pursuant to RCW 4.24.550.

21           (c) If any person required to register pursuant to this section  
22 does not have a fixed residence, it is an affirmative defense to the  
23 charge of failure to register, that he or she provided written notice  
24 to the sheriff of the county where he or she last registered within  
25 forty-eight hours excluding weekends and holidays after ceasing to have  
26 a fixed residence and has subsequently complied with the requirements  
27 of subsections (4)(a)(vii) or (viii) and (6) of this section. To  
28 prevail, the person must prove the defense by a preponderance of the  
29 evidence.

30           (7) All offenders who are required to register pursuant to this  
31 section who have a fixed residence and who are designated as a risk  
32 level II or III must report, in person, every ninety days to the  
33 sheriff of the county where he or she is registered. Reporting shall  
34 be on a day specified by the county sheriff's office, and shall occur  
35 during normal business hours. An offender who complies with the  
36 ninety-day reporting requirement with no violations for a period of at  
37 least five years in the community may petition the superior court to be  
38 relieved of the duty to report every ninety days. The petition shall

1 be made to the superior court in the county where the offender resides  
2 or reports under this section. The prosecuting attorney of the county  
3 shall be named and served as respondent in any such petition. The  
4 court shall relieve the petitioner of the duty to report if the  
5 petitioner shows, by a preponderance of the evidence, that the  
6 petitioner has complied with the reporting requirement for a period of  
7 at least five years and that the offender has not been convicted of a  
8 criminal violation of this section for a period of at least five years,  
9 and the court determines that the reporting no longer serves a public  
10 safety purpose. Failure to report, as specified, constitutes a  
11 violation of this section and is punishable as provided in subsection  
12 (11) of this section.

13 (8) A sex offender subject to registration requirements under this  
14 section who applies to change his or her name under RCW 4.24.130 or any  
15 other law shall submit a copy of the application to the county sheriff  
16 of the county of the person's residence and to the state patrol not  
17 fewer than five days before the entry of an order granting the name  
18 change. No sex offender under the requirement to register under this  
19 section at the time of application shall be granted an order changing  
20 his or her name if the court finds that doing so will interfere with  
21 legitimate law enforcement interests, except that no order shall be  
22 denied when the name change is requested for religious or legitimate  
23 cultural reasons or in recognition of marriage or dissolution of  
24 marriage. A sex offender under the requirement to register under this  
25 section who receives an order changing his or her name shall submit a  
26 copy of the order to the county sheriff of the county of the person's  
27 residence and to the state patrol within five days of the entry of the  
28 order.

29 (9) The county sheriff shall obtain a photograph of the individual  
30 and shall obtain a copy of the individual's fingerprints. A photograph  
31 may be taken at any time to update an individual's file.

32 (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
33 70.48.470, and 72.09.330:

34 (a) "Sex offense" means:

35 (i) Any offense defined as a sex offense by RCW 9.94A.030;

36 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a  
37 minor in the second degree);

1 (iii) Any violation under RCW 9.68A.090 (communication with a minor  
2 for immoral purposes);

3 (iv) Any federal or out-of-state conviction for an offense that  
4 under the laws of this state would be classified as a sex offense under  
5 this subsection; and

6 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
7 criminal attempt, criminal solicitation, or criminal conspiracy to  
8 commit an offense that is classified as a sex offense under RCW  
9 9.94A.030 or this subsection.

10 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in  
11 the first degree, kidnapping in the second degree, and unlawful  
12 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a  
13 minor and the offender is not the minor's parent; (ii) any offense that  
14 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,  
15 or criminal conspiracy to commit an offense that is classified as a  
16 kidnapping offense under this subsection (10)(b); and (iii) any federal  
17 or out-of-state conviction for an offense that under the laws of this  
18 state would be classified as a kidnapping offense under this subsection  
19 (10)(b).

20 (c) "Employed" or "carries on a vocation" means employment that is  
21 full-time or part-time for a period of time exceeding fourteen days, or  
22 for an aggregate period of time exceeding thirty days during any  
23 calendar year. A person is employed or carries on a vocation whether  
24 the person's employment is financially compensated, volunteered, or for  
25 the purpose of government or educational benefit.

26 (d) "Student" means a person who is enrolled, on a full-time or  
27 part-time basis, in any public or private educational institution. An  
28 educational institution includes any secondary school, trade or  
29 professional institution, or institution of higher education.

30 (11)(a) A person who knowingly fails to comply with any of the  
31 requirements of this section is guilty of a class C felony if the crime  
32 for which the individual was convicted was a felony sex offense as  
33 defined in subsection (10)(a) of this section or a federal or out-of-  
34 state conviction for an offense that under the laws of this state would  
35 be a felony sex offense as defined in subsection (10)(a) of this  
36 section.

37 (b) If the crime for which the individual was convicted was other

1 than a felony or a federal or out-of-state conviction for an offense  
2 that under the laws of this state would be other than a felony,  
3 violation of this section is a gross misdemeanor.

4 (12)(a) A person who knowingly fails to comply with any of the  
5 requirements of this section is guilty of a class C felony if the crime  
6 for which the individual was convicted was a felony kidnapping offense  
7 as defined in subsection (10)(b) of this section or a federal or out-  
8 of-state conviction for an offense that under the laws of this state  
9 would be a felony kidnapping offense as defined in subsection (10)(b)  
10 of this section.

11 (b) If the crime for which the individual was convicted was other  
12 than a felony or a federal or out-of-state conviction for an offense  
13 that under the laws of this state would be other than a felony,  
14 violation of this section is a gross misdemeanor.

15 (13) Except as may otherwise be provided by law, nothing in this  
16 section shall impose any liability upon a peace officer, including a  
17 county sheriff, or law enforcement agency, for failing to release  
18 information authorized under this section.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.129 RCW  
20 to read as follows:

21 (1) If the department learns that a current or prospective resident  
22 of a boarding home licensed under chapter 18.20 RCW or a nursing home  
23 licensed under chapter 18.51 RCW has been convicted of a sex offense as  
24 defined in RCW 9.94A.030 or convicted of reckless burning or arson  
25 under chapter 9A.48 RCW, the department shall notify the facility's  
26 administrator immediately. The administrator shall notify other  
27 facility staff consistent with RCW 9A.44.130 and may notify other  
28 persons pursuant to law.

29 (2) Any person convicted of a sex offense as defined in RCW  
30 9.94A.030, or convicted of reckless burning or arson under chapter  
31 9A.48 RCW, applying for admission to a boarding home licensed under  
32 chapter 18.20 RCW or a nursing home licensed under chapter 18.51 RCW,  
33 shall notify the administrator of the person's conviction status. The  
34 administrator shall notify other facility staff consistent with RCW  
35 9A.44.130.

36 (3) Any person convicted of a sex offense as defined in RCW  
37 9.94A.030, or convicted of reckless burning or arson under chapter

1 9A.48 RCW, residing in a boarding home licensed under chapter 18.20  
2 RCW, or a nursing home licensed under chapter 18.51 RCW, on the  
3 effective date of this section shall promptly notify the administrator  
4 of the person's conviction status. The administrator shall notify  
5 other facility staff consistent with RCW 9A.44.130.

6 (4) A boarding home licensed under chapter 18.20 RCW, or a nursing  
7 home licensed under chapter 18.51 RCW, may refuse admission to a person  
8 who is required to register as a sex offender under RCW 9A.44.130; any  
9 person found guilty of a crime of arson in the first degree or reckless  
10 burning in the first or second degree under chapter 9A.48 RCW; any  
11 person committed as a sexually violent predator under chapter 71.09 RCW  
12 or as a sexual psychopath under chapter 71.06 RCW; any person found not  
13 guilty of a sex offense or arson or reckless burning offense by reason  
14 of insanity under chapter 10.77 RCW; and/or any person found  
15 incompetent to stand trial for a sex offense or arson or reckless  
16 burning offense and subsequently committed under chapter 71.05 or 71.34  
17 RCW.

18 (5)(a) A boarding home licensed under chapter 18.20 RCW or a  
19 nursing home licensed under chapter 18.51 RCW may immediately transfer  
20 or discharge a resident if:

21 (i) The facility was not notified prior to admission that the  
22 resident was required to register as a sex offender under RCW  
23 9A.44.130; was convicted of a sex offense as defined in chapter 9.94A  
24 RCW; was convicted for felony arson or reckless burning under chapter  
25 9A.48 RCW; was committed as a sexually violent predator under chapter  
26 71.09 RCW or sexual psychopath under chapter 71.06 RCW; was found not  
27 guilty of a sexual offense or arson or reckless burning offense by  
28 reason of insanity; or was found incompetent to stand trial for a sex  
29 offense or arson or reckless burning offense and subsequently committed  
30 under chapter 71.05 or 71.34 RCW; and

31 (ii) The facility reasonably believes that the resident endangers  
32 the health or safety of individuals in the facility.

33 (b) A boarding home licensed under chapter 18.20 RCW or a nursing  
34 home licensed under chapter 18.51 RCW shall provide the resident  
35 written notice of posttransfer/discharge hearing rights under chapter  
36 34.05 RCW. If the resident requests a posttransfer/discharge hearing,  
37 any hearing must be held within five business days of the transfer or

1 discharge. A request for a hearing shall not delay or postpone the  
2 transfer or discharge.

3 (6) A boarding home licensed under chapter 18.20 RCW or a nursing  
4 home licensed under chapter 18.51 RCW, or its employees, are not liable  
5 for civil damages resulting directly or indirectly from a decision to  
6 admit, retain, transfer, or discharge the resident.

7 **Sec. 4.** RCW 70.129.110 and 1997 c 392 s 205 are each amended to  
8 read as follows:

9 (1) The facility must permit each resident to remain in the  
10 facility, and not transfer or discharge the resident from the facility  
11 unless:

12 (a) The transfer or discharge is necessary for the resident's  
13 welfare and the resident's needs cannot be met in the facility;

14 (b) The safety of individuals in the facility is endangered;

15 (c) The health of individuals in the facility would otherwise be  
16 endangered;

17 (d) The resident has failed to make the required payment for his or  
18 her stay; or

19 (e) The facility ceases to operate.

20 (2) All long-term care facilities shall fully disclose to potential  
21 residents or their legal representative the service capabilities of the  
22 facility prior to admission to the facility. If the care needs of the  
23 applicant who is medicaid eligible are in excess of the facility's  
24 service capabilities, the department shall identify other care settings  
25 or residential care options consistent with federal law.

26 (3) Before a long-term care facility transfers or discharges a  
27 resident, the facility must:

28 (a) First attempt through reasonable accommodations to avoid the  
29 transfer or discharge, unless agreed to by the resident;

30 (b) Notify the resident and representative and make a reasonable  
31 effort to notify, if known, an interested family member of the transfer  
32 or discharge and the reasons for the move in writing and in a language  
33 and manner they understand;

34 (c) Record the reasons in the resident's record; and

35 (d) Include in the notice the items described in subsection (5) of  
36 this section.

1 (4)(a) Except when specified in this subsection, the notice of  
2 transfer or discharge required under subsection (3) of this section  
3 must be made by the facility at least thirty days before the resident  
4 is transferred or discharged.

5 (b) Notice may be made as soon as practicable before transfer or  
6 discharge when:

7 (i) The safety of individuals in the facility would be endangered;  
8 (ii) The health of individuals in the facility would be endangered;  
9 (iii) An immediate transfer or discharge is required by the  
10 resident's urgent medical needs; or

11 (iv) A resident has not resided in the facility for thirty days.

12 (5) The written notice specified in subsection (3) of this section  
13 must include the following:

14 (a) The reason for transfer or discharge;

15 (b) The effective date of transfer or discharge;

16 (c) The location to which the resident is transferred or  
17 discharged, except when a resident is being transferred or discharged  
18 under section 3(5) of this act;

19 (d) The name, address, and telephone number of the state long-term  
20 care ombudsman;

21 (e) For residents with developmental disabilities, the mailing  
22 address and telephone number of the agency responsible for the  
23 protection and advocacy of developmentally disabled individuals  
24 established under part C of the developmental disabilities assistance  
25 and bill of rights act; and

26 (f) For residents who are mentally ill, the mailing address and  
27 telephone number of the agency responsible for the protection and  
28 advocacy of mentally ill individuals established under the protection  
29 and advocacy for mentally ill individuals act.

30 (6) A facility must provide sufficient preparation and orientation  
31 to residents to ensure safe and orderly transfer or discharge from the  
32 facility.

33 (7) A resident discharged in violation of this section has the  
34 right to be readmitted immediately upon the first availability of a  
35 gender-appropriate bed in the facility.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.20 RCW  
37 to read as follows:

1 (1) A resident transferred or discharged under section 3(5)(a) of  
2 this act is entitled to a posttransfer/discharge administrative hearing  
3 under chapter 34.05 RCW. If the resident requests a  
4 posttransfer/discharge hearing, any hearing must be held within five  
5 business days of the transfer or discharge. A request for a hearing  
6 shall not delay or postpone the transfer or discharge.

7 (2) Neither the boarding home, nor its employees, are liable for  
8 any civil damages resulting directly or indirectly from a decision to  
9 admit, retain, transfer, or discharge the resident.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.51 RCW  
11 to read as follows:

12 (1) A resident transferred or discharged under section 3(5)(a) of  
13 this act is entitled to a posttransfer/discharge administrative hearing  
14 under chapter 34.05 RCW. If the resident requests a  
15 posttransfer/discharge hearing, any hearing must be held within five  
16 business days of the transfer or discharge. A request for a hearing  
17 shall not delay or postpone the transfer or discharge.

18 (2) Neither the nursing home, nor its employees, are liable for any  
19 civil damages resulting directly or indirectly from a decision to  
20 admit, retain, transfer, or discharge the resident.

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